

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

In re:

SHARON L. GRAY,

Debtor.

CHAPTER 13

CASE NO. 08-74065-SCS

U.S. BANK, N.A.,

Plaintiff/Movant.

vs.

SHARON L. GRAY

R. CLINTON STACKHOUSE, JR., TRUSTEE,

Defendants.

MOTION FOR RELIEF

NOTICE

YOUR RIGHTS MAY BE AFFECTED. YOU SHOULD READ THESE PAPERS CAREFULLY AND DISCUSS THEM WITH YOUR ATTORNEY, IF YOU HAVE ONE IN THIS BANKRUPTCY CASE. (IF YOU DO NOT HAVE AN ATTORNEY, YOU MAY WISH TO CONSULT ONE.)

IF YOU DO NOT WISH THE COURT TO GRANT THE RELIEF SOUGHT IN THE MOTION, OR IF YOU WANT THE COURT TO CONSIDER YOUR VIEWS ON THE MOTION, THEN WITHIN FOURTEEN (14) DAYS FROM THE DATE OF SERVICE OF THIS MOTION, YOU MUST FILE A WRITTEN RESPONSE EXPLAINING YOUR POSITION WITH THE COURT AND SERVE A COPY ON THE MOVANT. UNLESS A WRITTEN RESPONSE IS FILED AND SERVED WITHIN THIS FOURTEEN (14) DAY PERIOD, THE COURT MAY DEEM OPPOSITION WAIVED, TREAT THE MOTION AS CONCEDED, AND ISSUE AN ORDER GRANTING THE REQUESTED RELIEF WITHOUT FURTHER NOTICE OR HEARING.

IF YOU MAIL YOUR RESPONSE TO THE COURT FOR FILING, YOU MUST MAIL IT EARLY ENOUGH SO THE COURT WILL RECEIVE IT ON OR BEFORE THE EXPIRATION OF THE FOURTEEN (14) DAY PERIOD.

YOU WILL BE NOTIFIED SEPARATELY BY THE CLERK OF THE HEARING DATE ON THE MOTION.

NOTICE FROM SAMUEL I. WHITE, P. C.

PURSUANT TO THE FEDERAL FAIR DEBT COLLECTION PRACTICES ACT, WE ADVISE YOU THAT SAMUEL I. WHITE, P. C., COUNSEL FOR THE PLAINTIFF/MOVANT, IS A DEBT COLLECTOR, ATTEMPTING TO COLLECT THE INDEBTEDNESS REFERRED TO HEREIN, AND ANY INFORMATION WE OBTAIN FROM YOU WILL BE USED FOR THAT PURPOSE.

MOTION FOR RELIEF

The Motion of U.S. Bank, N.A., by Counsel, hereby moves the Court for relief from the automatic stay and in support thereof represents unto the Court:

1. This Court has Jurisdiction over this proceeding pursuant to 28 U. S. C. Sections 157 and 1334 and 11 U. S. C. 362 (d), and that this matter is a core proceeding.

2. The Debtor filed a Petition under Chapter 13 of the Bankruptcy Code on December 1, 2008.

3. The Debtor is the owner of the real property located at **2440 Ambler Avenue, Norfolk, VA 23513**, which property is described as:

ALL THAT CERTAIN LOT, PIECE OF PARCEL OF LAND, TOGETHER WITH
THE BUILDINGS AND IMPROVEMENTS THEREON, LYING, SITUATE AND
BEING IN THE CITY OF NORFOLK, VIRGINIA, AND KNOWN, NUMBERED
AND DESIGNATED AS LOT NUMBERED EIGHTEEN (18) IN BLOCK "B" ON
THAT CERTAIN PLAT ENTITLED "REVISED PLAT OF NORTH FOX HALL
PROPERTY OF PENN LAND CORPORATION" SAID PLAT BEING DULY
RECORDED IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF
CHESAPEAKE, VIRGINIA IN MAP BOOK 23, AT PAGES 71 AND 72: TO
WHICH REFERENCE IS HEREBY MADE FOR A MORE PARTICULAR
DESCRIPTION.

4. Plaintiff is the current holder of a Note secured by a Deed of Trust dated December 27, 2002. The original noteholder incident to the loan was Harborside Financial Network, Inc., with the loan having been acquired by U.S. Bank, N.A., pursuant to an Assignment dated November 25, 2009. A copy of the Note, Deed of Trust, and Assignment are attached hereto and incorporated herein by reference.

5. That a Proof of Claim for pre-petition arrearages, in the amount of \$3,947.93 has been filed incident to this loan with \$118.94 presently having been disbursed by the Chapter 13 Trustee.

6. The account is in arrears for 6 monthly post-petition mortgage installments, with the post-petition reinstatement through December, 2009, being \$5,781.90, calculated as follows:

| | |
|---|------------|
| 6 monthly payments (07/01/09-12/01/09) @ \$886.41/month | \$5,318.46 |
| Accrued Late Charges | 177.30 |
| Property Inspection Fees | 60.00 |
| Bankruptcy Fees and Costs - Motion For Relief | 650.00 |
| Less Debtor Suspense | <423.86> |
| Total | \$5,781.90 |

7. Post-petition application of payments:

| Date posted to | Payment type and/or # (if available) | Amount | Post-petition month applied |
|----------------|--------------------------------------|------------|-----------------------------|
| 02/03/2009 | | \$1,000.00 | 01/01/2009 |
| 02/20/2009 | | \$1,000.00 | 02/01/2009 |
| 03/26/2009 | | \$2,000.00 | 03/01/2009 & 04/01/2009 |
| 05/29/2009 | | \$886.41 | 05/01/2009 |
| 05/29/2009 | | \$886.41 | 06/01/2009 |

8. The unpaid principal balance due on said note is \$90,675.76.

9. It is the opinion of the Plaintiff that the Debtor is financially unable to maintain said obligation and that Plaintiff will suffer irreparable injury, loss and damage if it is not permitted to foreclose upon its security interest; otherwise Plaintiff is without adequate protection.

WHEREFORE, Plaintiff prays that it be granted relief from the provisions of the automatic stay with regard to the said real property in order to pursue its rights pursuant to the terms of the Note and Deed of Trust, to include the initiation of foreclosure proceedings, as well as to commence and complete any lawful action necessary to obtain complete possession of the property subsequent to a foreclosure and further requests that the fourteen (14) day stay be waived incident to any Order entered incident to the Motion for Relief herein.

U.S. BANK, N.A.

By: /s/ D. Carol Sasser

Of Counsel

Samuel I. White, P. C.

D. Carol Sasser, Esquire, VSBN 28422

Robert A. Jones, Esquire, VSBN 71123

5040 Corporate Woods Drive

Suite 120

Virginia Beach, VA 23462

CERTIFICATE

I certify a true copy of the foregoing Motion was served via electronic notice this 8th day of December, 2009, to R. Clinton Stackhouse, Jr., Trustee, 870 Greenbrier Circle, Suite 200, Chesapeake, VA 23320 and to Robin L. Tolerton, Esquire, Counsel for Debtor, 4936 Cleveland Street, Suite 100, Virginia Beach, VA 23462; and was mailed this 8th day of December, 2009 to Sharon L. Gray, Debtor, 2440 Ambler Avenue, Norfolk, VA 23513.

/s/ D. Carol Sasser

Samuel I. White, P.C.